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Holland+KnightTel 401 751 8500
Fax 401 553 6850Holland & Knight LLP
One Financial Plaza
Suite 1800
Providence, RI 02903
www.hklaw.com**TO:**

Matthew Cohn

USEPA

303-312-6953

NAME

COMPANY/FIRM

FAX NUMBER

Denver

CO

303-312-6853

CITY

STATE

(TELEPHONE NUMBER)

FROM:

Robin Main

401-824-5102

NAME

TELEPHONE

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FOR THE RECORD:

DATE: June 3, 2005

URGENCY: ☐ SUPER RUSH☐ RUSH ☐ REGULAR

FAXED BY:

FILE #: 045013-00050

CLIENT NAME: LaQuinta

CONFIRMED: ☐ YES ☐ NO

NAME:

TIME:

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Holland Knight

Tel 401 751 8500
Fax 401 553 6850

Holland & Knight LLP
One Financial Plaza, Suite 1800
Providence, RI 02903
www.hklaw.com

Robin Main
401 824 5102
robin.main@hklaw.com

June 6, 2005

VIA FAX 303-312-6953

Matthew Cohn
United States Environmental Protection Agency
Region VIII
Legal Enforcement Program
999 18th Street, Suite 500
Denver, CO 80202

Re: Vermiculite Intermountain Superfund Site

Dear Matt:

I am in receipt of your letter regarding EPA's proposed framework for a global settlement on the Vermiculite Intermountain Superfund Site/LaQuinta property matter. While LaQuinta does not waive any defenses it may have, including, but not limited to, the innocent landowner defense, LaQuinta wishes to obtain further information so that it may evaluate its position regarding the Site more thoroughly, particularly in regard to cost. To this end, please note the following issues:

1. As has been discussed previously, LaQuinta purchased its property from the Van Cott Trust and Michele E. Scott, Robert F. Edwards, Jr., Kathryn Edwards Robinson and Kerry Edwards (the "Edwards Family"). To date, however, the Edwards Family has never been noted as a PRP. Has EPA made a decision not to include the Edwards? If so, LaQuinta would like to know the basis therefor. It is LaQuinta's position that the Edwards Family should be considered for PRP status at the Site and take part in the cost of the cleanup. As shown in LaQuinta's 104(e) Response dated April 2, 2004, the contact information for Robert F. Edwards is 1565 Adrian Road, Burlingame, California 94010. Please see relevant part of 104(e) response attached hereto. Indeed, fair settlement negotiations are not possible without the evaluation of the Edwards' position.
2. LaQuinta disagrees that an orphan share is not available for the Vermiculite Intermountain portion, particularly because LaQuinta does not have any relation to that entity. To preclude the assignment of an orphan share causes undue hardship and prejudice to LaQuinta. LaQuinta asks that EPA reconsider an

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orphan share. Indeed, during our last substantive telephone conversation, you told me that an orphan share for this Site may be available. At that time, Vermiculite Intermountain's so-called affiliation with other parties was known and, thus, we question why a change in position on the orphan share now has occurred.

3. Please provide information on EPA's pursuit of response costs from the W.R. Grace bankruptcy. What is the amount of EPA's claim in the W.R. Grace bankruptcy and has it been increased as was discussed in a previous conference call? Also, does EPA know the likelihood of receiving any money from the W.R. Grace bankruptcy and, if such receipt of money is possible, the timing for the same?
4. As to the response costs associated with the Frank Edwards Building, are the total past response costs \$500,000 or \$1,000,000? In your May 26th letter, you suggest that the Van Cott Trust and LaQuinta each pay one half of the past response costs associated with the Frank Edwards Building (approximately \$500,000). It is not clear whether the total past response cost are \$500,000 or \$1,000,000. Please clarify.
5. Finally, and very importantly, LaQuinta requests that EPA provide it with any and all information it has regarding the amphibole asbestos (or tremolite asbestos) contamination on the property and EPA's estimate of cleanup costs associated therewith.

Again, as stated above, LaQuinta, by sending this letter, does not in any way agree at this time to settle this matter or waive any of its defenses. Nevertheless, acting in good faith, LaQuinta wishes to pursue certain questions that it has on the Site. This list of questions is by no means exhaustive and LaQuinta may have further questions as this matter proceeds. Thank you for your prompt attention to these important issues. I look forward to hearing from you at your earliest convenience as it is very important to LaQuinta that action on this matter continue. LaQuinta will provide information on when its representatives are available for a conference call.

Sincerely yours,

HOLLAND & KNIGHT LLP


Robin Main

cc: LaQuinta Representatives

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